

The Board has considered the record and adopted the stipulations listed in the Award.

ISSUES

The Award grants benefits for a ten percent scheduled injury to the forearm.¹ This percentage of disability is based on the functional impairment ratings of both Dr. Robert L. Coleman and Dr. Michael J. Poppa. On appeal, respondent contends that the only credible rating is the five percent to the forearm opinion given by Dr. Coleman. Conversely, claimant argues that the ALJ's award should be affirmed or, in the alternative, the 15 percent rating by Dr. Poppa is the most credible. The nature and extent of disability is the only issue for review.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Board concludes the Award should be affirmed. The Board agrees with and adopts as its own the findings and conclusions stated by the ALJ in the Award.

Dr. Coleman appears to have understated claimant's impairment by failing to account for a median nerve neuropathy despite an objectively diagnosed abnormality on the MRI. Dr. Coleman acknowledged that the MRI showed signal intensity at the median nerve and stated that the median nerve is most likely the reason for claimant's pain and weakness in his wrist. Dr. Coleman obviously considered those complaints to be legitimate when issuing his rating. Nevertheless, Dr. Coleman said claimant did not have a peripheral nerve disorder. On the other hand, Dr. Poppa's rating appears to overstate claimant's impairment by relying upon diagnoses that were not supported by the objective testing.

Given claimant's persistent symptoms, which the Board finds credible and legitimate, the possibility for error in the objective testing, which appeared inconsistent with those symptoms, and, as discussed by both Dr. Poppa and Dr. Coleman, the inadequacy of the *Guides* in accounting for claimant's condition, the Board finds the result reached by the ALJ in averaging or "splitting" the two expert's rating was reasonable and appropriate.

The Board affirms the award of a ten percent permanent partial disability based upon a scheduled injury to the forearm.

Award

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Robert H. Foerscher dated July 5, 2002, should be, and is hereby, affirmed.

¹ K.S.A. 44-510d(a)(12).

IT IS SO ORDERED.

Dated this _____ day of January 2003.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Michael H. Stang, Attorney for Claimant
Mark E. Kolich, Attorney for Respondent
Robert H. Foerschler, Administrative Law Judge
Director, Kansas Division of Workers Compensation